

US EPA ARCHIVE DOCUMENT

Honorable John Engler  
Governor  
State of Michigan  
Lansing, MI 48909

Dear Governor Engler:

I am pleased to inform you that today we are taking the next step to move forward with the Environmental Protection Agency's (EPA) far-reaching approach to protect the health of over a hundred million Americans living in the eastern United States from harmful levels of air pollution. This action should significantly reduce air pollution from coal-fired power plants and other large industrial facilities. Not only do those emissions threaten public health in nearby areas, they also threaten communities hundreds of miles away. Reducing these emissions will prevent thousands of smog-related illnesses each year, including aggravated cases of childhood asthma. This plan can be achieved through cost-effective, readily achievable reductions.

After EPA issued the NOx SIP Call in September 1998 to reduce smog across the eastern United States, several parties challenged us in Court. Last May, as an interim measure, the Court stayed the requirement that States submit their plans to address transported smog. On March 3, 2000, the United States Court of Appeals for the District of Columbia Circuit issued a decision largely upholding the NOx SIP Call.

In light of the public health benefits at stake and the March 3, 2000 Court decision upholding the NOx SIP Call, we intend to move forward expeditiously in implementing the regional strategy to reduce smog. Although the Court remanded a few narrow issues to the Agency for further action, the part of the program left intact covers over 90% of the emission reductions required by the NOx SIP Call in those states where it still applies.

The EPA and Department of Justice have been working closely together to take action in response to the Court's decision. Today we are filing a motion with the Court asking it to lift its stay of the date for states to submit revised air pollution control plans in response to the NOx SIP Call. If the Court grants our request, you and the other states still subject to the NOx SIP Call will need to submit control plans by September 1, 2000 for those portions of the NOx SIP Call upheld by the Court. In the absence of a state submission by that date, the Clean Air Act provides for EPA to put in place a federal plan. We look forward to working with you to meet the NOx SIP Call requirements.

Although the Court upheld the NOx SIP Call for your entire state, the reasoning of the Court's opinion concerning two states on the periphery of the SIP Call region would support excluding emissions from northern Michigan. If you decide that you want this portion of your state excluded, you can submit a Phase 1 budget that addresses sources only in the southern portion of your state. We are sending your environmental commissioner our calculation of the budget for that portion of your state. If you submit a SIP that meets this partial budget and meets the other requirements of the NOx SIP Call, EPA intends to propose to approve this plan as meeting your Phase 1 SIP Call obligations.

Additionally, EPA will conduct an expeditious rulemaking on those few issues remanded by the Court. After that rulemaking, you will have additional time to supplement your control plan as needed. Under a separate cover, your Environmental Commissioner will receive additional details and information about how we calculated the amount of NOx your state needs to reduce.

It is important that we move forward with plans to reduce smog levels by May 1, 2003. When some states asked the Court to stay the rule, they stated that it would not delay achieving cleaner air by May 2003. Our technical analysis supports that realizing these NOx reductions by 2003 is feasible without endangering the reliability of the electric power supply. The NOx SIP Call also includes a compliance supplement pool that allows states to provide significant flexibility to avoid reliability problems. Over 40% of the power plants that states could choose to regulate under the NOx SIP Call are already required to reduce NOx emissions as a result of EPA's recent action on petitions submitted by Connecticut, Massachusetts, New York, and Pennsylvania to reduce air pollution from upwind sources. Our goal is to provide a coordinated approach that satisfies both the NOx SIP Call and EPA's action on the state petitions.

I believe it is essential to move forward as quickly as possible to achieve the public health benefits from this ground-breaking strategy. My staff is ready to assist you as you develop your plan. By acting expeditiously, you can secure cleaner air for the citizens of your State and other states in the eastern United States.

Sincerely,

Carol M. Browner

cc: Russell J. Harding  
Jennifer Granholm

Honorable Don Siegelman  
Governor  
State of Alabama  
Montgomery, AL 36130

Dear Governor Siegelman:

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Carol M. Browner

cc: James W. Warr  
Bill Pryor